

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

---

**KELVIN KIRK,**

Plaintiff,

v.

**Case No. 23-CV-536**

**ANTHONY BOVEE, *et al.*,**

Defendants.

---

**ORDER**

---

On March 6, 2024, plaintiff Kelvin Kirk, who is incarcerated and representing himself, filed a motion to supplement his complaint. (ECF No. 30.) On April 22, 2024, Kirk filed a motion to compel video evidence. (ECF No. 31.)

As to the motion to supplement the complaint, Federal Rule of Civil Procedure 15(d) allows a plaintiff to supplement his complaint to add allegations of “any transaction, occurrence, or event that happened after the date” of the complaint. However, the newly proposed allegations must be related to the subject matter of the original complaint. *Alesi v. Redman*, No. 3:20-CV-318-CRL-MMG, 2021 WL 123129 at \*1 (N.D. Ind. Jan. 13, 2021). Kirk seeks to add allegations describing retaliatory acts that Bovee committed in 2024. These allegations are entirely separate from the allegations in Kirk’s original complaint. While Kirk was allowed to proceed on a retaliation claim against Anthony Bovee for acts allegedly committed in 2020, that

claim has subsequently been dismissed without prejudice on the grounds that Kirk failed to exhaust his administrative remedies. Even if that claim had not been dismissed, the new allegations of retaliation are too attenuated to be related to the 2020 allegations of retaliation. Additionally, the court notes that Kirk's retaliation claim was dismissed without prejudice. As such, if he believes that Bovee's retaliation is an ongoing violation of his constitutional rights, he may, after he properly exhausts his administrative remedies, file a separate lawsuit subject to the applicable statute of limitations. His motion to supplement the complaint is denied.

As for Kirk's motion to compel, he seeks video evidence of a search and missing property. The defendants, in response, state that Kirk did not comply with Fed. R. Civ. P. 37(a)(1), which requires the parties to meet and confer regarding discovery disputes prior to bringing a motion to compel. (ECF No. 33.) The defendants also state that Kirk has not submitted any discovery requests, let alone requests regarding the video evidence. Discovery has recently opened. The court encourages Kirk to review its May 24, 2024, scheduling order and the litigation guide Kirk was sent with the original screening order for information on how to serve discovery requests on the defendants. Kirk's motion to compel is denied.

**IT IS HEREBY THEREFORE ORDERED** that Kirk's motion to supplement the complaint (ECF No. 30) is **DENIED**.

**IT IS FURTHER ORDERED** that Kirk's motion to compel (ECF No. 31) is **DENIED**.

Dated at Milwaukee, Wisconsin this 29th day of May, 2024.

BY THE COURT.

A handwritten signature in blue ink, reading "Nancy Joseph", written over a horizontal line.

NANCY JOSEPH

United States Magistrate Judge